

BOARD OF ADJUSTMENT REPORT



MEETING DATE: 6/2/2004

ITEM No. _____

ACTION REQUESTED: Zoning Ordinance Variance

SUBJECT Suarez Residence **8-BA-2004**

REQUEST Request to approve a variance from Article V. Section 5.204.G. regarding wall height on a parcel located at 10239 N 65th Place with Single Family Residential (R1-35) zoning.

OWNER/APPLICANT Peter Suarez
CONTACT 602-332-5100

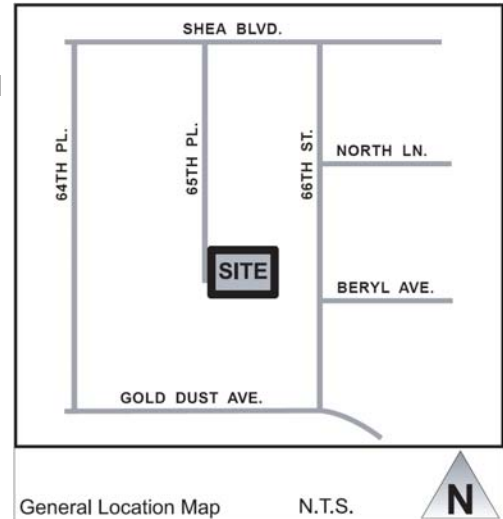
LOCATION 10239 N 65th Pl

CODE ENFORCEMENT None.
ACTIVITY

PUBLIC COMMENT None.

ZONE R1-35 Single-family residential district – Thirty-five thousand (35,000) square feet per lot.

DEVELOPMENT This residence is located on a metes-and-bounds parcel, and is not
CONTEXT located within a subdivision.



East of this site is a 2-story residence on a metes-and-bounds parcel.

South of this site is a metes-and-bounds parcel used as a horse property with horse stalls and a residence.

To the west, across 65th Place, is a church campus on a subdivided parcel. The church campus consists of a worship facility and school with one school building located 149 feet from the northwest corner of the subject site. Parking for the church is located directly across the street from the subject residential property, with one driveway on the cul-de-sac and one driveway just north of the cul-de-sac.

To the north is an unimproved metes-and-bounds parcel owned by the church.

65th Place extends south of Shea Boulevard and terminates in a cul-de-sac in front of this residence. There is an existing chain link fence on the property lines of the property located at the southeast corner of 65th Place and Shea Boulevard, that chain link fence is approximately 4 feet tall and is rusted, indicating that it has been in place for several years. Other properties in the area have hedges along their front property line.

**ORDINANCE
REQUIREMENTS**

Article V, Section 5.204.G. requires that walls, fences and hedges shall not exceed 3-feet in height on the front property line or within the required front yard.

DISCUSSION

The applicant is requesting to place an 8-foot screen wall on the front property line and within the front yard setback of 65th Place. The applicant's narrative explains that the adjacent church activities necessitate additional screening of their front yard in order for the property owner to enjoy their property with its residential functions. An 8-foot high fence has been installed on the side and rear lot lines, and the property owner has made preparations for the 8-foot high fence to be installed in the front yard and front property line. The City issued a wall permit that allowed for installation of the 8-foot high fence on the side lot lines.

Walls, fences and hedges are permitted in the required front yard up to a maximum height of 3-feet pursuant to the Zoning Ordinance. The R1-35 zoning district requires a front yard to be provided on 65th Place having a depth measured from the right-of-way line of not less than 40-feet

FINDINGS

- 1. That there are special circumstances applying to the property referred to in the application which do not apply to other properties in the District. The special circumstances must relate to the size, shape, topography, location or surroundings of the property at the above address:**

The applicant's property is isolated at the end of a cul-de-sac street that provides access to a 248 space parking lot for which access is not restricted onto 65th Place. The access to the parking lot is gated onto 64th Place, a street with residences zoned R1-35 and that face the other side of the church parking lot. Therefore more traffic occurs on 65th Place. The applicant contends that this traffic is day and night, and infringes on the residential property privacy. The proposed wall would provide privacy as well as noise abatement. There are four other R1-35 properties on the east side of 65th Place with similar circumstances.

- 2. That the authorizing of the variance is necessary for the preservation of the privileges and rights enjoyed by other properties within the same zoning classification and zoning district:**

Authorizing this variance would allow this property exclusive front yard privacy and noise abatement for their front yard. In its existing condition, churchgoers and motorists have an unobstructed view to the property's house at its driveway, looking from 65th Place and from the church parking lot.

The residential properties in this district on 64th Place do not have to contend with the church traffic on a daily basis, because the access drives to the church are gated to prevent cross traffic between 64th Place and 65th Place through the church parking lot.

3. That special circumstances were not created by the owner or applicant:

The applicant states that the church has grown after the applicant purchased the house, and that the church has a negative impact on private and quiet enjoyment of the residence.

4. That the authorizing of the application will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general:

The applicant states that the wall will be architecturally designed, and intermixed with the existing oleanders that are on the front property line, and that the neighbors do not object.

Staff has concluded that the proposed wall/fence, gate, and columns walls would require a minimum 40-foot setback as required by the Zoning Ordinance.

STAFF CONTACT

Kira Wauwie, Senior Planner
Report Author
Phone: 480-312-7061
E-mail: Kwauwie@ScottsdaleAZ.gov

Kurt Jones, Current Planning Director
Phone: 480-312-2524
E-mail: Kjones@ScottsdaleAZ.gov

ATTACHMENTS

1. Project Narrative
2. Background Information
3. Justification
4. Context Aerial
5. Aerial Close-up
6. Zoning Map
7. Photographs
8. Proposed Site Plan
9. Wall Detail

PROJECT NARRATIVE

We request a variance to the City Zoning Ordinance to allow an 8 foot screen wall at the front yard property line and the side yard property line within the front yard setback in order to regain privacy and to provide a buffer from the increasing traffic, noise, and light pollution from the expanding church property across the street from our driveway and front yard. The church has grown exponentially in the last few years, building a large cathedral, several new ancillary buildings, as well as a basketball court, volleyball court, and outdoor amphitheater. In the last couple of years, the church has also purchased the lot to our North, indicating further expansion in that direction. The 12+ acre Chaparral Christian Church is thriving and expanding and, although we have no quarrel with its mission, we need to protect our property value, our privacy, and the quiet enjoyment of the home we chose for our retirement. We have been full time residents in this home since 1997. At that time the church was active mostly on Sunday mornings. Now there are activities daily and many evenings, as well.

There is an 8 foot oleander hedge on our Western property line. We request the right to increase the effectiveness of visual screening and sound reduction by constructing an 8 foot high serpentine concrete masonry screen wall, incorporating the existing oleanders on both sides of the wall. This wall, by its height and geometry would lessen the impact of the neighboring institutional use. We will relocate the existing driveway from its present location at the Northwest corner of our property to the Southwest corner, away from the church's busy driveway, and away from the growing preschool drop-off point and playground area.

This would also provide a buffer from the new basketball and volleyball courts, and the amphitheater.

Background Information
For Board of Adjustment

1
STOP SHOP

DATE _____
APPROVED AS PRESENTED _____
APPROVED W/STIP _____
DENIED _____

CASE # _____
PROJECT # 158 - PA - 04
CONTINUED TO _____
HEARING DATE _____
CHAIRMAN _____

APPLICANT TO FILL OUT THIS PORTION

VARIANCE REQUESTED AT (STREET ADDRESS WHERE VARIANCE IS REQUESTED)

10239 N 65th Place - Variance To allow construction of 8ft wall in front yard
Setback + to increase of side yard fences within setback from 3ft to 8ft

TO BE COMPLETED BY YOUR COORDINATOR

ARTICLE AND SECTIONS OF ZONING ORDINANCE TO BE VARIED _____

ARTICLE V, SECTION 5.2004. G. BUILDINGS, WALLS, FENCES, AND LANDSCAPING.

SCOTTSDALE ZONING REQUIRES 3-FOOT MAXIMUM HEIGHT WITHIN FRONT YARD.

APPLICANT'S REQUEST 8-FOOT MEANDERING WALL.

AMOUNT OF VARIANCE 5- FEET OF HEIGHT.

PROCEDURES OF THE BOARD OF ADJUSTMENT

There will be three notices of hearing: One on the property, two within 300 feet, and a notice will be published in the daily newspaper, at least 15 days before the hearing, and a notice will be mailed to adjacent property owners, within 300', at least 15 days before the hearing.

The Chairman shall determine what parties are available to represent the applicant, and they shall present the case. The staff will be heard, then those in favor or in opposition. After arguments have been heard, the party representing the owner will have an opportunity for rebuttal after which the Chairman may declare the questioning and argument closed. A vote will then be taken on the matter of approval or denial.

No variance shall be granted resulting in any changes in the uses permitted in any zoning classification or which constitute special privilege.

The application and all maps, plans and other accompanying dates and material shall be available for public inspection during office hours at the office of the building official.

A notice of hearing will be mailed to the applicant 6 days before the hearing.

For information regarding applications please call: 994-7080.

ATTACHMENT #2

8-BA-2004
4/23/2004

Addendum: Justification for Requested Variance

10239 N. 65th Place

1. That there are special circumstances applying to the property referred to in the application which do not apply to other properties in the District. The special circumstances must relate to the size, shape, topography, location or surroundings of the property at the above address.

The home of P&P Suarez, 10239 N. 65th Place is on a cul de sac in an R1-35 neighborhood, next to a property of 12+ acres to the west and north (Chaparral Christian Church) with large numbers of vehicles and personnel going in and out all day and night. The church parking lot is directly to the west and across from Suarez' driveway on 65th Place. It's the main traffic area serving the church's daily day-care/preschool center. It also contains the church's new outdoor amphitheater, basketball and volleyball courts with high teenage use in evenings. On some Sundays the parking lot overflows, and cars line 65th Place in front of Suarez' property and north to Shea (See pictures). Church recently acquired the lot immediately north of the Suarez property, which will eventually be developed.

Note: we are not complaining about the Church's use of its property. But we need to regain privacy that has been lost to the church's expansion. And we need insulation from the disturbances to our quiet enjoyment of our home caused by high traffic, noise from children's playground and teenage sports, and institutional lighting.

Also, a two story (to maximum height) home has been built to the east of 10239, with 2nd story windows overlooking Suarez' back yard and patio. This has caused substantial loss to Suarez' privacy.

The wall will be a noise abatement feature, most especially the west wall. It should also help to stop the loss of property value created by changes in the church's usage of its property.

8-BA-2004
4/23/2004

Addendum #2: Justification for Requested Variance

10239 N. 65th Place

2. That the authorizing of the variance is necessary for the preservation of privileges and rights enjoyed by other properties within the same zoning classification and zoning district.

Substantial property development to the west and east have resulted in significant loss of privacy for the Suarez'. The Suarez property is the most directly impacted by church activities because:

- It's closest to church activities and noise, being directly across from main church traffic area and parking.
- Basketball court is across street from Suarez' front yard.
- Day-care outdoor play area is across street from Suarez driveway.
- Lot to Suarez' north has recently been purchased by church to be developed.
- It's the only non-church owned property on the cul de sac without alternative ingress and egress.

Addendum #3: Justification for Requested Variance

10239 N. 65th Place

3. That special circumstances were not created by the owner or applicant.

The Chaparral Christian Church has grown exponentially since the Suarez's bought their home in 1997.

- A huge cathedral has been built, as well as other new buildings, the parking lot has doubled in size and so, seemingly, has the congregation.
- Several outdoor features have been added, such as basketball and volleyball courts, and an amphitheater.
- The preschool facility has grown both in numbers and in noise.
- The church recently bought the lot to the north of the Suarez' property, signaling intent to grow in that direction.
- (Once again, our only quarrel here is that the huge growth of the church (good for them) has had a significant negative impact on our privacy and the quiet enjoyment of our home.
-

In 1997, the property to the Suarez' east was part of the horse ranch to the south. It is now the only two story house in the neighborhood. And has been built to maximum height, with windows looking down upon the Suarez' back yard and patio area.

Addendum #4: Justification for Requested Variance

10239 N. 65th Place

4. That the authorizing of the application will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or the public welfare in general.

The fence along the front will be architecturally designed, incorporating the existing 8 foot oleanders. There are already existing walls in the area.

This will make us better neighbors and will increase the value of adjacent properties.

We have talked with our neighbors. They approve our plans.

The pastor of the church offered to share the cost of the north wall.



Suarez Residence

8-BA-2004

ATTACHMENT #4



Suarez Residence

8-BA-2004

ATTACHMENT #5



ATTACHMENT #6

LOOKING NORTH ON 65TH PLACE FROM SUBJECT SITE

13. North



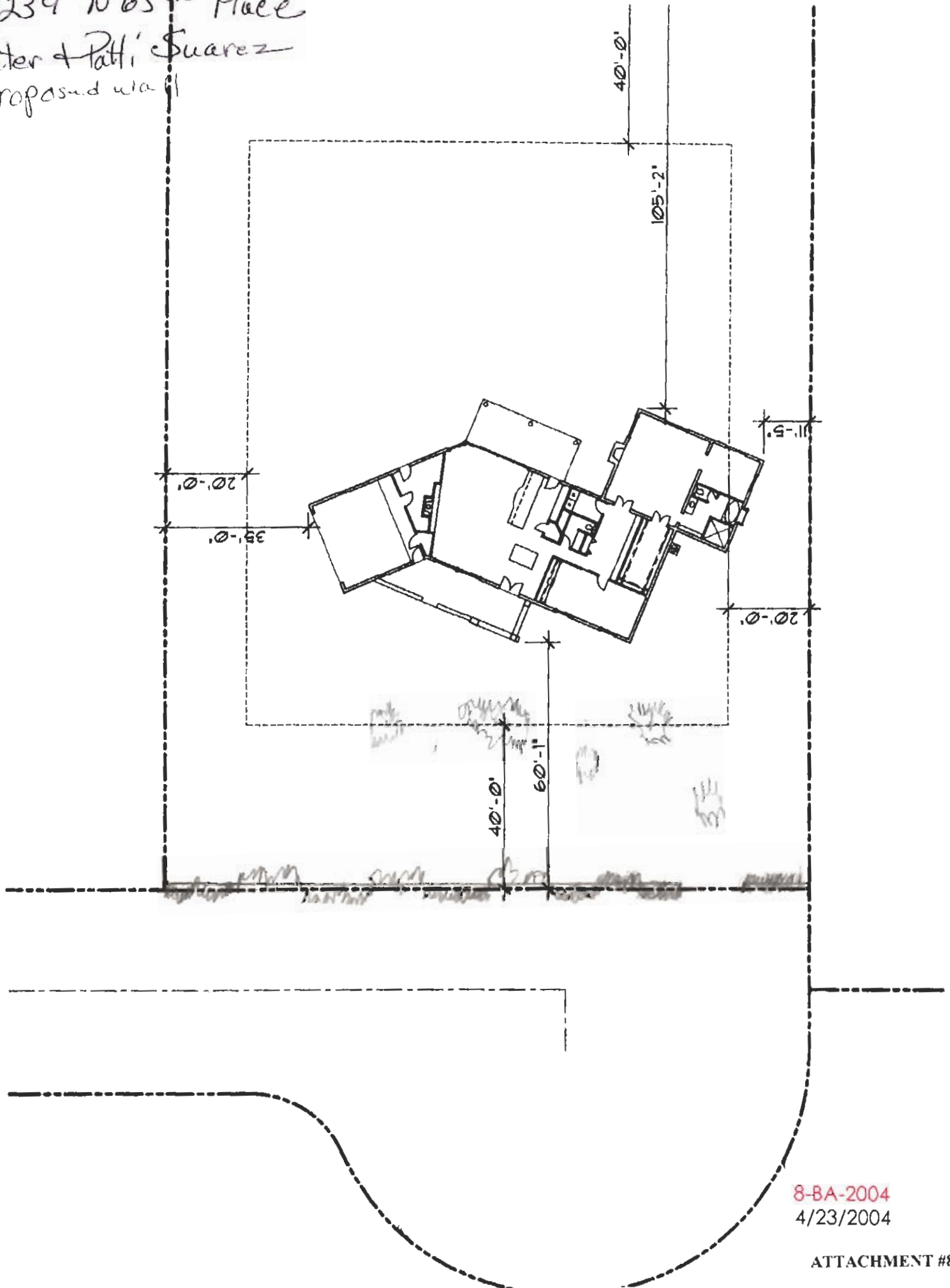
10239 N 65TH PLACE LOOKING EAST AT SUBJECT SITE



8-BA-2004
4/23/2004

ATTACHMENT #7

10239 N 65th Place
Peter & Patti Suarez
Proposed wing

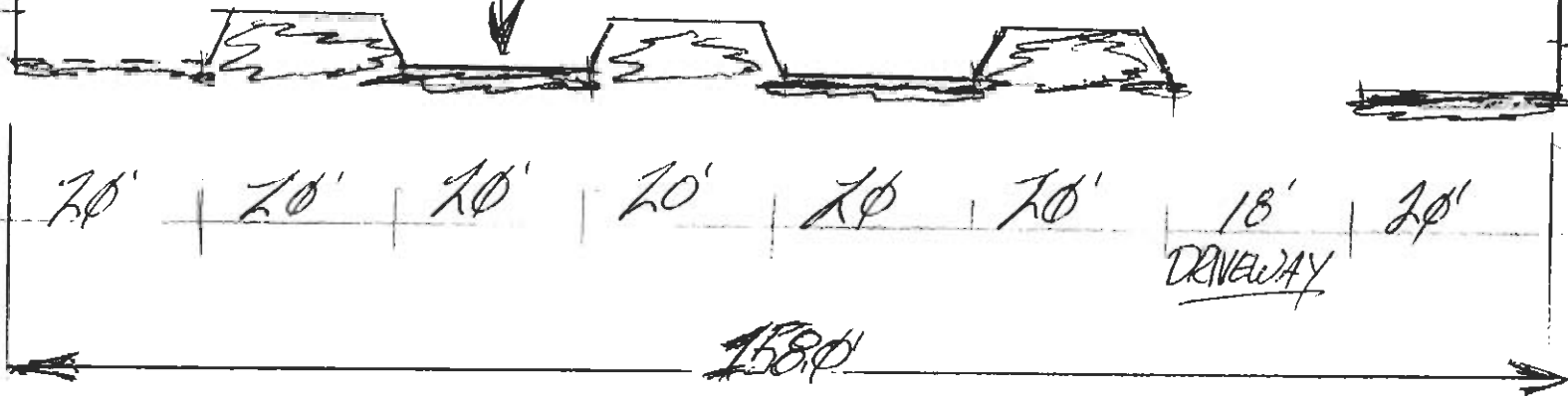


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ATTACHMENT #8

Wall Detail

Setback: 4" Normo



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